

1 Marie E. Colmey (State Bar No. 164840)
2 Email: mcolmey@vanblk.com
VANDEVENTER BLACK LLP
3 790 E. Colorado Blvd., Suite 500
Pasadena, CA 91101-2185
Telephone: (626) 768-1260
4 Telefax: (626) 768-1261

5 Attorneys for Defendants and Cross-Defendants, Tetra Tech Tesoro, Inc.
and Safeco Insurance of America

6

7

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

10

11 U. S. *ex rel.* McD CORPORATION,) Case No.: 3:12-CV-03638-EDL
12 Plaintiff,)
13 vs.)
14 BUTTE STEEL & FABRICATION, INC.,)
et al.,)
15 Defendants.)
16 _____)
17 BUTTE STEEL & FABRICATION, INC., a)
California Corporation,)
18 Cross-Claimant,)
19 v.)
20 TETRA TECH TESORO, a Virginia)
Corporation and SAFECO INSURANCE OF)
AMERICA, a Washington Corporation,)
21 Cross-Defendants.)
22 _____)
23 _____)
24 _____)

25 Pursuant to Civil Local Rules 6-2 and 7-12, Defendants/Cross-Defendants Tetra Tech
26 Tesoro, Inc. (“Tesoro”) and Safeco Insurance of America (“Safeco”), Defendant/Cross-Claimant
27 Butte Steel & Fabrication, Inc. (“Butte Steel”), and Use Plaintiff U.S. *ex rel.* McD Corporation
28 (“McD”), by and through their respective attorneys of record, hereby stipulate and agree to a

thirty-five (35) day continuance of the hearing date for Tesoro/Safeco's Motion to Dismiss Butte Steel's Crossclaim and Motion to Strike Butte Steel's Answer and Crossclaim as follows:

RECITALS

1. McD filed its complaint on or about July 12, 2012.

2. Butte Steel filed an answer to the complaint and a crossclaim against Tesoro and Safeco on October 5, 2012.

3. Tesoro and Safeco filed a Motion to Dismiss Butte Steel's Crossclaim and a Motion to Strike Butte Steel's Answer and Crossclaim on October 29, 2012. These two motions are currently set for hearing on December 4, 2012.

4. At the initial Case Management Conference held on October 16, 2012, Magistrate Judge Laporte referred this case to Magistrate Judge Jacqueline Scott Corley for Settlement Conference to be scheduled within ninety (90) days.

5. All counsel participated in an initial ADR telephone conference call with Magistrate Judge Corley on October 29, 2012, and a second follow-up ADR telephone conference call with Judge Corley on November 16, 2012.

6. During the November 16, 2012 ADR telephone conference call, all parties agreed to resolve any outstanding issues related to the dismissal of McD's claims against Butte Steel based upon Tesoro's settlement with McD by Wednesday, November 21, 2012.

7. Additionally, principal representatives of Butte Steel and Tesoro have agreed to meet on November 28, 2012 to discuss disputed issues and documents, in conjunction with and as a part of Judge Corley's ongoing ADR settlement conference in this case, to further settlement negotiations in this case.

8. Magistrate Judge Corley has scheduled a follow up ADR telephone conference on December 3, 2012 to evaluate the status of settlement discussions and progress following the meeting between the principals of Butte Steel and Tesoro, and to schedule an ADR Settlement Conference.

9. Tesoro/Safeco's Motion to Strike and Motion to Dismiss are currently set for hearing on December 4, 2012.

10. Tesoro/Safeco's reply briefs for both the Motion to Strike and Motion to Dismiss are currently due to be filed on November 20, 2012.

11. During the November 16, 2012 ADR telephone conference call, Magistrate Judge Corley recommended, and counsel for Tesoro and Butte Steel agreed, to continue the hearing date for Tesoro/Safeco's Motion to Dismiss and Motion to Strike, to allow settlement discussions to continue, without unnecessarily expending both the court and all parties' time and resources in preparing and filing Tesoro/Safeco's reply briefs for the two motions, and in preparing for the hearing on Tesoro/Safeco's motions.

12. All parties desire to continue the hearing on Tesoro/Safeco's motions to allow further settlement negotiations to take place in conjunction with Judge Corley's ADR settlement conference.

13. An additional thirty-five (35) days for the hearing on Tesoro and Safeco's motions will not prejudice any party to this case, and such continuance will preserve judicial resources and time, and allow settlement discussions to continue.

NOW, THEREFORE, the Parties stipulate as follows:

STIPULATION

1. The hearing on Defendants/Cross-Defendants Tesoro and Safeco's Motion to Dismiss Butte Steel's Crossclaim and Defendants/Cross-Defendants Tesoro and Safeco's Motion to Strike Butte Steel's Answer and Crossclaim, shall be continued from December 4, 2012 to **January 8, 2013**, or another date convenient for this Court.

111

111

111

111

111

111

111

111

2. Defendants/Cross-Defendants Tesoro and Safeco's reply briefs for its Motion to Dismiss Butte Steel's Crossclaim and Motion to Strike Butte Steel's Answer and Crossclaim shall be filed and served fourteen (14) days before the date set for the hearing on these Motions.

Dated: November 19, 2012

VANDEVENTER BLACK LLP

By: /s/ Marie E. Colmey

Marie E. Colmey

Attorneys for Defendants/Cross-Defendants Tetra Tech Tesoro, Inc. and Safeco Insurance of America

Dated: November 21, 2012

LAW OFFICE OF DAVID J. MURRAY

By: /s/ David J. Murray

David J. Murray

Attorneys for Defendant/Cross-Claimant Butte Steel & Fabrication, Inc.

Dated: November 21, 2012

LAW OFFICE OF DOUGLAS R. THORN

By: /s/ Douglas R. Thorn

Douglas R. Thorn

Attorneys for Defendant/Crossclaimant Butte Steel
& Fabrication, Inc.

Dated: November 21, 2012

LUBKA WHITE

By: /s/ Laurence P. Lubka

Laurence P. Lubka

Attorneys for Use Plaintiff U.S. *ex rel.*

McD Corporation

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: November 21, 2012

UNITED STATES MAGISTRATE JUDGE
ELIZABETH D. LAPORTE

By: Elijah R. D. Laporte
Elizabeth D. Laporte